

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-6592

DAVID MEYERS,

Plaintiff - Appellant,

v.

MS. GAUL, CAPTAIN; LT. MS. LOCKLEAR; THE SCOTLAND CORRECTIONAL INSTITUTION; RED UNIT'S SEGREGATION; MR. OXENONE; LT. MR. BARNES; OFC. MR. SIMMS; UNKNOWN WHITE MALE; MS. GERALD; CHIEF WARDEN STEPHEN JACOBS; ASSISTANT WARDEN DEAN LOCKLEAR; SCOTLAND CORRECTIONAL GUARDS; V. DREW; MS. COVINGTON; MS. UNDERWOOD; SRG INTELL OFFICERS; OFC. MIZELL; OFC. BLUE,

Defendants - Appellees.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Loretta C. Biggs, District Judge. (1:22-cv-00119-LCB-JEP)

Submitted: October 5, 2022

Decided: November 2, 2022

Before NIEMEYER and KING, Circuit Judges, and MOTZ, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

David Meyers, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Meyers filed two separate notices of appeal in the district court. We dismiss the appeal for lack of jurisdiction.

Meyers' first notice of appeal, dated May 11, 2022, followed the magistrate judge's April 6, 2022, report and recommendation.* This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291, and certain interlocutory and collateral orders, 28 U.S.C. § 1292; Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). The magistrate judge's report and recommendation is neither a final order nor an appealable interlocutory or collateral order.

Meyers' second notice of appeal, dated June 24, 2022, followed the district court's May 19, 2022, order and judgment. In the notice, Meyers states he is appealing the magistrate judge's June 16, 2022, report and recommendation. But there was no report entered on that date in this case. Under Fed. R. App. P. 3(c)(1)(B), appellants must identify the order being appealed. Because Meyers identified the order he sought to appeal, "the fairest inference is that [he] did not intend to appeal" any other order. *Jackson v. Lightsey*, 775 F.3d 170, 176 (4th Cir. 2014).

Accordingly, we dismiss this appeal because we lack jurisdiction over the district court's order and judgment. We deny Meyers' motion for leave to proceed under the Prison

* For the purpose of this appeal, the date appearing on the notice is the earliest date Meyers could have delivered the notice to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266, 276 (1988).

Litigation Act without prepayment of fees as moot. We also deny as moot Meyers' motions to have the district court accept his handwritten complaints, to vacate the district court's orders dating back to May 8, 2020, and for other relief. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED